

Exhibit “2”

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

STEPHANIE HERNANDEZ,
Plaintiff,

VS.

CLEARWATER TRANSPORTATION,
LTD,
Defendant.

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} Civil Action No.
} 1:18-CV-00319-RP
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}
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ORAL DEPOSITION OF
STEPHANIE HERNANDEZ
NOVEMBER 13, 2020
(Reported Remotely)

ORAL DEPOSITION of STEPHANIE HERNANDEZ, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 13th of November, 2020, from 9:59 a.m. to 1:37 p.m., before Tracie L. Carbajal, CSR, by machine shorthand via Zoom, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

<p>1 A. No.</p> <p>2 Q. Do you know if he was terminated from Clearwater</p> <p>3 Transportation for failing to show up to work for</p> <p>4 several days?</p> <p>5 A. That's what was the perception, but I didn't --</p> <p>6 there were two different sides of the story, so I didn't</p> <p>7 really know or ask because I was still working at that</p> <p>8 time.</p> <p>9 Q. Okay. I want to ask you more about your</p> <p>10 employment at Clearwater Transportation. So when did</p> <p>11 you begin working for Clearwater Transportation?</p> <p>12 A. In the year of 2014. The specific month, I</p> <p>13 don't -- I don't recall.</p> <p>14 Q. That's fine. How did you find out about -- oh,</p> <p>15 let me take that back. What position did you apply for</p> <p>16 in 2014 at Clearwater Transportation?</p> <p>17 A. The counter rep., CSR. It's customer service</p> <p>18 rep.</p> <p>19 Q. And how did you find out about the position?</p> <p>20 A. I actually worked for the same company except for</p> <p>21 it was Corporate in Des Moines, Iowa where I moved from</p> <p>22 for two years, and I'd seen that they had an open</p> <p>23 position, so I had applied.</p> <p>24 Q. And what brought you from Iowa down to Texas?</p> <p>25 A. My sister is actually military. We came from</p> <p style="text-align: right;">Page 10</p>	<p>1 A. To -- for me, my understanding, it was the sales</p> <p>2 manager. Operations manager, I guess.</p> <p>3 Q. So other than being a counter rep. and a sales</p> <p>4 manager, did you ever have any other jobs while you</p> <p>5 worked at Clearwater?</p> <p>6 A. No, ma'am.</p> <p>7 Q. And when you initially started working at</p> <p>8 Clearwater in 2014, who was your supervisor?</p> <p>9 A. Matt Rincon.</p> <p>10 Q. And I believe we talked earlier that he left</p> <p>11 Clearwater at some point. Who became your supervisor</p> <p>12 after Matt left?</p> <p>13 A. Danny Owens.</p> <p>14 Q. And during your employment with Clearwater, did</p> <p>15 you have any other supervisors?</p> <p>16 A. Besides Monty, no.</p> <p>17 Q. Is that Monty Merrill?</p> <p>18 A. Yeah.</p> <p>19 Q. So as a sales, I think, manager operations is</p> <p>20 kind of what you called it, can you describe to me what</p> <p>21 exactly that job entailed?</p> <p>22 A. So I had to do our daily reports. We had</p> <p>23 morning -- Monday morning meetings, kind of set us up</p> <p>24 for the week, and then I did the game plan. I also did</p> <p>25 the hiring process -- the interview and hiring process.</p> <p style="text-align: right;">Page 12</p>
<p>1 Alaska, actually. I moved up there with her, and then</p> <p>2 she got relocated here to Killeen/Fort Hood, and I</p> <p>3 just -- it wasn't a good area for me to work for. It</p> <p>4 was, like, a more military town, so I just came to</p> <p>5 Austin.</p> <p>6 Q. Okay. Do you know if Clearwater Transportation</p> <p>7 is still in operation as of today?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you know if Clearwater Transportation filed</p> <p>10 for bankruptcy within the last two years?</p> <p>11 A. From what I've heard, yes.</p> <p>12 Q. So when you started working for -- and can we</p> <p>13 just -- just so it's shorter, can we agree that when I</p> <p>14 say "Clearwater," that we -- it means Clearwater</p> <p>15 Transportation, so we're not --</p> <p>16 A. (Witness nods head up and down.)</p> <p>17 Q. Okay, good. So when you started working at</p> <p>18 Clearwater as a counter rep., did your -- did you ever</p> <p>19 apply or get a promotion during your employment at</p> <p>20 Clearwater?</p> <p>21 A. Oh, yes.</p> <p>22 Q. Do you remember when?</p> <p>23 A. January of 2017.</p> <p>24 Q. And what was your -- what was the job title for</p> <p>25 the promotion?</p> <p style="text-align: right;">Page 11</p>	<p>1 I overlooked the counter training, making sure our</p> <p>2 counter was up to training and meeting our -- our</p> <p>3 monthly goals. I would also help with the outside</p> <p>4 cleaning cars, having cars ready. If needed, I would go</p> <p>5 wash the cars to do a quick turnaround sometimes. That</p> <p>6 was pretty much it.</p> <p>7 Q. Okay. And then how would your -- so -- okay. So</p> <p>8 tell me about being a counter rep. What -- what duties</p> <p>9 did your job entail for that position?</p> <p>10 A. As a counter rep.?</p> <p>11 Q. Yes.</p> <p>12 A. So we would have reservations set up for the day.</p> <p>13 We would have like a -- it's like a sheet, and it just</p> <p>14 told you what your reservations were for the day. And</p> <p>15 then just basically, you know, knowing what you have on</p> <p>16 the lot. We had to meet a quota every month, a monthly</p> <p>17 quota for the company to -- to be able to get</p> <p>18 commission, and then also for customer service, and I</p> <p>19 exceed. I would basically max out every month on both</p> <p>20 of those.</p> <p>21 Q. What do you mean by "max out"?</p> <p>22 A. So there's a commission sheet where you get so</p> <p>23 much percentage for however -- there's a monthly yield</p> <p>24 that you get every month, and based off of your yield</p> <p>25 will go off of the commission sheet, and you get a</p> <p style="text-align: right;">Page 13</p>

<p>1 reports done or, like, the daily reports done in time 2 for the morning. Throwing up, running back and forth 3 from the bathroom back to the office and trying to, you 4 know, get myself together to do these tasks. 5 Q. And I think you previously testified that those 6 symptoms continued until December of 2017; is that 7 correct? 8 A. Yes. 9 Q. So where did you work prior to Clearwater? 10 A. The same -- Dollar Thrifty, the same company. It 11 was just a corporate location in Des Moines, Iowa, but I 12 had a -- are you talking about, like, in Texas or -- 13 Q. Just prior to working at Clearwater. 14 A. So when I first moved down here, I was an office 15 manager for an apartment complex, and I did that before 16 I started -- for maybe, like, a month or so, a little 17 bit over a month before I started at Clearwater. Sorry. 18 Q. Why did you decide to leave that job as office 19 manager? 20 A. I'd seen that they had an opening at that time. 21 Q. And when you say "they," do you mean Clearwater? 22 A. Right. Yes, ma'am. 23 Q. Okay. And do you remember the month and year of 24 when you were laid off at Clearwater? 25 A. Yeah, June of 2017.</p> <p style="text-align: right;">Page 22</p>	<p>1 call -- a phone call interview, and they would just be, 2 like, "Okay. Well, we have other ones we have to 3 interview. We'll call you if you're selected," and I 4 didn't hear anything back. 5 Q. Okay. And after -- did you apply for any jobs 6 after August of 2017? 7 A. Yes, I continued to apply. Mostly, it would be, 8 like -- like, not in-person jobs. Like, maybe 9 stay-at-home jobs because I just felt if people seen me 10 pregnant -- huge and pregnant, I just feel like they 11 wouldn't want to hire me. But I still had my resume, 12 like, on Indeed and those other websites and didn't 13 really hear anything. Or, like, if somebody did reach 14 out, it wasn't enough money for me to go to work and 15 having to have a child in daycare, so it just wasn't 16 enough money for me to take that job. 17 Q. Okay. Were you ever offered a job between June 18 of 2017 and July of 2018? 19 A. I don't believe so, no. 20 Q. And then between June of 2017 and July of 2018, 21 was there ever a time in which you did not apply for any 22 jobs? 23 A. No. 24 Q. Okay. So is it your testimony that throughout 25 that time period, you were continuously applying for</p> <p style="text-align: right;">Page 24</p>
<p>1 Q. And since June 2017, have you worked anywhere 2 else? 3 A. Just at home. 4 Q. And what do you mean by "just at home"? 5 A. I opened up a daycare, a home daycare. 6 Q. Do you know when you opened up the home daycare? 7 A. July of 2018, I believe. Don't quote me. I know 8 it was 2018. I believe it was July of 2018. 9 Q. And are you still operating the home daycare as 10 of today? 11 A. Yes, ma'am. 12 Q. And between June of 2017 and July of 2018, did 13 you apply to work -- did you apply for any jobs? 14 A. Yes, I did. 15 Q. And what jobs did you apply for? 16 A. I don't recall all of them, but I posted my 17 resume on Indeed and another one of those websites where 18 you can post your resume. But from June, July, August 19 until I started showing, I was applying very frequently 20 for, like, manager positions or something similar to the 21 job that I was already doing. Like, I tried to go to a 22 different company for rental cars, and I just couldn't 23 get passed the first stage -- the first interview stage. 24 Q. Did you have any interviews from any employers? 25 A. Yes, I did have a few. It would just be, like, a</p> <p style="text-align: right;">Page 23</p>	<p>1 jobs and looking for another job? 2 A. Yes. 3 Q. Okay. And as to your current home daycare 4 employment, how do you accept -- what are your forms of 5 payment that you accept from clients? 6 A. Just cash, usually. Here and there -- like, if 7 it's a drop-in or if they're -- if I know they're coming 8 for, like, two weeks, sometimes a parent will do a 9 check; otherwise, it's just cash. 10 Q. Okay. So you don't accept any, like, Venmo or 11 Zelle or Cash App, like that? 12 A. No, I don't. 13 Q. Did you obtain a license from any governmental 14 entity to operate your home daycare? 15 A. Yeah, in July. 16 Q. Is that July of this year or -- 17 A. 2018. Excuse me. 18 Q. 2018, okay. 19 A. Yes, ma'am. 20 Q. Okay. And, then, do you currently still have a 21 license from a governmental entity to operate the 22 daycare? 23 A. No. 24 Q. And why not? 25 A. I went from being, like, a full-time daycare and</p> <p style="text-align: right;">Page 25</p>

<p>1 occurred?</p> <p>2 A. No, I don't.</p> <p>3 Q. But would it -- can you -- obviously, it would</p> <p>4 have been after you were laid off; is that correct?</p> <p>5 A. I don't know. Yeah, I would -- I would assume.</p> <p>6 Q. Okay. And then if we go down to the next</p> <p>7 sentence where it has, "Because my dad told me his</p> <p>8 construction is hiring for office manager, \$17 plus</p> <p>9 benefits, but I can't do it." Do you see where it says</p> <p>10 that?</p> <p>11 A. Uh-huh.</p> <p>12 Q. So was your dad hiring for an office manager for</p> <p>13 his construction business?</p> <p>14 A. Yeah. I think his company was at the time.</p> <p>15 Q. And when you say "at the time," was that around</p> <p>16 June of 2017?</p> <p>17 A. I don't know the specific date. I couldn't tell</p> <p>18 you that.</p> <p>19 Q. Was it around -- do you know if it was around the</p> <p>20 time you were laid off?</p> <p>21 A. It would probably have to be, yeah. Yeah.</p> <p>22 Q. Do you see where it says, "But I can't do it"?</p> <p>23 Do you see where it says that?</p> <p>24 A. Yes.</p> <p>25 Q. Why did you tell Shelby that you could not do it?</p> <p style="text-align: right;">Page 54</p>	<p>1 letter, you told her that -- or made a comment to the</p> <p>2 extent of, "Well, it's because I'm pregnant;" is that</p> <p>3 correct?</p> <p>4 A. Yeah.</p> <p>5 Q. And why did you make that statement?</p> <p>6 A. Because that's how I felt.</p> <p>7 Q. And why did you feel that they were laying you</p> <p>8 off because you were pregnant?</p> <p>9 A. Because I just felt like because I was missing a</p> <p>10 lot of work at that time, and I was on a salary pay, so</p> <p>11 there wouldn't be any other reason. Like, I -- I wasn't</p> <p>12 in trouble. I just got promoted. You know, I was doing</p> <p>13 good in the company. Like, what -- there wouldn't have</p> <p>14 been no other reason.</p> <p>15 Then for them not to let me go back to the</p> <p>16 counter. Like, why couldn't I go back to the counter or</p> <p>17 any other position that you-guys were hiring for? Why</p> <p>18 couldn't I go to another position, and it was just,</p> <p>19 like -- they were, like, stuttering, "Well, no." And</p> <p>20 then, like, Danny would, like, try to step in to,</p> <p>21 like -- and it just wouldn't make sense to me.</p> <p>22 And I was just, like, "It's because I'm pregnant.</p> <p>23 It's because I'm sick and I can't physically be here,</p> <p>24 and you're punishing me because of that." She was,</p> <p>25 like, "No." And she didn't say anything about the</p> <p style="text-align: right;">Page 56</p>
<p>1 You couldn't -- you couldn't be the office manager or --</p> <p>2 A. No. I just -- I don't have a great relationship</p> <p>3 with my dad, so I just -- I didn't want to be around</p> <p>4 him. "I can't do it," meaning, like, I can't be around</p> <p>5 him.</p> <p>6 Q. Okay. Got'cha. I wasn't sure if it meant, like,</p> <p>7 you couldn't physically do the job.</p> <p>8 A. I can't deal with it. Like, I can't be around</p> <p>9 him. He's not a main factor in my life.</p> <p>10 Q. Do you know the name of his construction company?</p> <p>11 A. No, I don't.</p> <p>12 Q. How do you know that his construction company was</p> <p>13 hiring for an office manager?</p> <p>14 A. My sister had told him that I had got laid off,</p> <p>15 because when I was living in Alaska, I worked for a</p> <p>16 construction company, and he had relayed that message to</p> <p>17 my sister.</p> <p>18 Q. Did your dad ever offer you the job as office</p> <p>19 manager at his construction company?</p> <p>20 A. No. It wasn't his company. It was just a</p> <p>21 company he worked for. He didn't have, like, the</p> <p>22 authority to hire me or anything.</p> <p>23 Q. Got it, okay. Let's go to the next -- before we</p> <p>24 do that, previously, you testified that when you were</p> <p>25 speaking with Renee, when you were provided the layoff</p> <p style="text-align: right;">Page 55</p>	<p>1 company, you know, going down or anything about the</p> <p>2 company, nothing. She couldn't explain why. She was</p> <p>3 just, like, "No, honey, that's not it," and I -- she</p> <p>4 couldn't -- it was just like a stuttering. "Well" --</p> <p>5 and then Danny had to step in.</p> <p>6 Like, I just didn't understand. I didn't</p> <p>7 understand. I didn't do anything wrong. Like, I was</p> <p>8 doing what I was supposed to do. I was just not -- I</p> <p>9 wasn't able to come to work, you know, or stay at work</p> <p>10 very long.</p> <p>11 Q. Okay. And that kind of takes me into my -- what</p> <p>12 I want to talk about next, is kind of when you found out</p> <p>13 you were pregnant and, you know, symptoms and whatnot.</p> <p>14 So from what you recall, when did you first find out you</p> <p>15 were pregnant?</p> <p>16 A. It was, like, the end of May. Yes, it was the</p> <p>17 end of May. I was sick, like, before then, and I would</p> <p>18 let Danny know. You know, I would just go to the</p> <p>19 office, and I would tell him, "Man, I'm not feeling</p> <p>20 good. I'm throwing up." You know, I wasn't throwing up</p> <p>21 as, but, like, here and there, you know. And I would</p> <p>22 tell him, "Man I just got done being sick." He was,</p> <p>23 like, "Are you all right," and, honestly, I thought it</p> <p>24 was stomach cancer. When I was, like, 18, I had stomach</p> <p>25 cancer, and I thought maybe, like -- I never thought I</p> <p style="text-align: right;">Page 57</p>


<p>1 was pregnant. I never did think I was pregnant. 2 Like, we wasn't trying, you know, nothing. That 3 didn't even come to my mind. I just thought I was, 4 like, sick. I had these headaches, and I kind of 5 expressed it to him here and there. And then I told 6 him, I was, like, "You know, I'm going to make a 7 doctor's visit," and he said, "Okay. Just let me know 8 how it goes." "Okay." And then I found out, like, the 9 end of May, and I was, like -- I didn't know what to do. 10 It was, like, "You're having twins and you're pregnant." 11 I was, like, "What? Are you kidding me?" So it was 12 like good news. You know, it was kind of exciting. 13 Like, I never thought I was going to have twins, and 14 then, yeah, that's when I found out the end of May. It 15 was, like, the end of May. 16 Q. Did you ever tell anyone at Clearwater that you 17 were pregnant after you found out? 18 A. I told Shelby first because I was scared -- I was 19 scared to tell the company, so I was trying to ask her 20 for advice on -- on how or, like, what is the steps she 21 thinks I should take. I was just trying to get advice. 22 Q. And what advice did she give you to? 23 A. She was just, like, "You need to tell them. You 24 know, I would just tell them." She's, like, "Just, you 25 know, take a deep breath and just -- you're going to</p> <p style="text-align: right;">Page 58</p>	<p>1 told her I was, you know, getting sick a lot and I was 2 scared to tell the company. And, I mean, she just 3 basically told me everything will be fine. "Like, they 4 can't do anything to you. There's nothing that they can 5 do to you. You know, women get pregnant. That's just 6 what women do." She kind of, like, calmed me down a lot 7 and made me feel better, you know, about letting them 8 know because I really was scared to tell them. I don't 9 know why. I was just -- you know, I just got a 10 position. I didn't want them to be upset with me, you 11 know. So she kind of, like, just made me feel better. 12 She's, like, "You know, they can't do anything to you, 13 you know. Like, they would have to accommodate and they 14 would have to, you know, basically, you know, work with 15 you and congratulations," basically. So it wasn't -- it 16 wasn't like a very long conversation at all. 17 Q. Do you remember the timeframe when you spoke to 18 the lady in HR? 19 A. No. It was right after -- it was probably the 20 beginning of June. The very, very beginning of June. 21 Q. Is that June of 2017? 22 A. Yes ma'am. 23 Q. Okay. And then -- so who is the first person -- 24 or let me -- who did you notify at Clearwater that you 25 were pregnant, other than the HR lady?</p> <p style="text-align: right;">Page 60</p>
<p>1 have to let them know." And I said, "Yeah, but, you 2 know, what if they don't like that, you know?" Like, I 3 don't know. I was just thinking of a whole bunch of 4 things, and she was, like, "You know, call HR and see 5 what your options would be, you know, like how -- they 6 would give you better advice than what I could give you, 7 you know," and I said, "Okay," so that's when I called 8 HR. 9 Q. Who did you call at HR? 10 A. I don't remember her name. Kristen or -- 11 Q. Crystal, does that name -- 12 A. I think Kristen, uh-huh. 13 Q. And the person that you called at HR, do you know 14 if they worked for Clearwater? 15 A. Yeah. She was, like, our HR. She would, like, 16 come and do, like, classes, I guess you could say, like, 17 to inform our employees, like, this is what you can sign 18 up for. This is our insurance. You know, she -- she 19 was like our lady that would come to the company -- 20 Q. Okay. 21 A. -- frequently. 22 Q. So did you call HR? 23 A. Yeah. 24 Q. Okay. And what all did you discuss with HR? 25 A. Just -- I just told her I was pregnant, and I</p> <p style="text-align: right;">Page 59</p>	<p>1 A. I told Danny. 2 Q. And that's Danny Owens? 3 A. Uh-huh. 4 Q. And when did you tell Danny that you were 5 pregnant? 6 A. Right after I spoke with HR, like, that day. 7 That -- I spoke to HR, I believe, that morning, and then 8 after lunch I just kind of went for it. 9 Q. And did you tell him in person? 10 A. Yes, at his office. 11 Q. And did he say anything in response to you? 12 A. No. He was just, like, "Oh, good. 13 Congratulations. Now, you know why you're sick," 14 basically. And, I mean, that was it, kind of. I was 15 just like, whew, you know, like -- like, my chest was 16 lifted up, like, okay, that was easy, you know. I 17 thought he was going to be, like, "Why did you get 18 pregnant," or I don't know. I was just, like, oh, okay. 19 That was easy, so -- 20 Q. Did you tell anybody else that worked at 21 Clearwater that you were pregnant? 22 A. Eventually, I ended up telling -- I don't know if 23 he told Renee first and -- Danny, but I wanted to tell 24 them myself also. So Renee came that Thursday. I 25 believe it was a Thursday of the first week of June of</p> <p style="text-align: right;">Page 61</p>

<p>1 2017. She always comes on Thursdays, and I told her 2 over the phone. I told her on the phone because I 3 didn't see her in the office ever. 4 Q. And then did you ever tell Monty that you were 5 pregnant? 6 A. Yeah. That following Monday -- because we have 7 our Monday morning meetings with just the managers, so 8 after our meeting, I just said, "Hey, can I give you a 9 call," and he was, like, "Yeah. Sure," and I called him 10 and told him. 11 Q. And when you spoke with Renee on the phone about 12 your pregnancy, what did she -- what all did you 13 discuss? 14 A. I just was telling her, you know, I was just sick 15 all the time and, you know, I found out I was having 16 twins, and I'm sorry. She was, like, "Don't apologize. 17 We're women. You know, that's how women are. It's 18 fine. You'll be okay." She's, like, "Are you okay?" I 19 said, "Yes, I'm fine. I just don't want you-guys to be 20 upset," she was, like, "No, we're not upset. You know, 21 just take care of yourself. We love you here. You're 22 doing an awesome job." 23 Just basically uplifted me because I was really 24 upset, you know, and I was just telling her, "You know, 25 I'm sorry. Like, I'm sick a lot, but I'm doing the best</p> <p style="text-align: right;">Page 62</p>	<p>1 MR. KAPLAN: Okay. Sorry to interrupt. 2 THE WITNESS: Yeah. 3 A. I just basically told him the same thing. You 4 know, "Hey, I'm pregnant." He was, like, "Okay," and he 5 was, like, "So what does that mean?" I was, like, "I'm 6 okay. You know, I can come to work. You know, I feel 7 sick a lot. I'm feeling sick a lot, you know. I'm 8 throwing up a lot. I don't feel very well, and -- but 9 I'm doing the best that I can," because I was missing a 10 lot of work, too, at that time. 11 So I was, like, you know -- he was, like, "Okay." 12 I was, like, "You know, I was just wondering, like, 13 maybe I can work from home or" -- I was just throwing 14 options out there, you know, like, maybe I can work 15 from home. He was, like, "No, you wouldn't be able to 16 do that." I was, like, "I can do the reports at home. 17 I can do the game plan. I have a work phone. If 18 somebody needs to talk to a manager, I can just log in 19 real quick and fix things, you know," and he was, like, 20 "No." 21 And I said, "Or, you know, maybe I can go to 22 hourly. You know, just pay me for the hours that I can 23 be at work" because, you know, sometimes I would leave 24 early because I wasn't feeling very well or, like, I 25 would be super late to work because I'm just, like,</p> <p style="text-align: right;">Page 64</p>
<p>1 that I can. You know, just please forgive me. You 2 know, I'll do what I can," and then just things like 3 that. I mean, it was -- to me, I thought it was a good 4 conversation. Like, it was not anything negative. It 5 was not -- she really uplifted me, like, you know -- she 6 was really, like, powerful in our company, so I always 7 looked up to her because, you know, they're always, 8 like, you're a woman in a man's world. Do you know what 9 I mean? And I always looked up to her because she 10 took -- she was very strong, you know, and she didn't 11 let the guys tell her what to do. 12 She was -- you know, she took pride in her job, 13 and I've always looked up to her. So when she uplifted 14 me, it made me feel good about myself, you know. I was, 15 like, okay, she understands. She's a woman. She 16 understands, you know. Like, we are the ones that have 17 to carry the baby, you know, and men don't. So, yeah, 18 she really uplifted me that day. 19 Q. Awesome. Tell me about your conversation that 20 you had that next Monday with Monty. What all did you 21 discuss? 22 MR. KAPLAN: I just noticed the clock. 23 Stef, do you you need to take a break at some point 24 soon? I noticed we're passed noon. Is it okay? 25 THE WITNESS: Yeah. No. She got it.</p> <p style="text-align: right;">Page 63</p>	<p>1 literally -- like, literally, I'm pulling over throwing 2 up on the side of the highway, like, literally all over 3 my clothes. I have to go back home and change and then 4 go to work, so I was, like, "You know, you could just 5 pay me for the hours, you know, or I can do part-time." 6 And he was, like, "No. You know, we'll think of 7 something, and I'll get back to you." And I was, like, 8 okay. And then I came into work on that, what, 9 Thursday, I think it was, and I got laid off. 10 Q. So -- and correct me if I'm wrong. You had -- 11 you had a phone call with Renee on a Thursday at the 12 beginning of June of 2017? 13 A. It was, like, a Wednesday, Thursday, yeah. 14 Q. Okay. And then that following Monday, called 15 Monty to let him know you were pregnant? 16 A. Yeah. I think he probably already knew, but I 17 was in the hospital that night, Wednesday, Thursday and 18 Friday at the hospital. I was in the hospital, and they 19 excused me the next couple of days because I was 20 diagnosed with hyperemesis, which is, like, a severe 21 morning sickness that women can get,, and it only 22 happens in, like, two percent, three percent of women, 23 and unfortunately -- because I've already had a 24 pregnancy, my ten-year-old, and I never was sick. 25 It was like a great pregnancy, so when I had got</p> <p style="text-align: right;">Page 65</p>

<p>1 diagnosed, he excused me the next couple of days because</p> <p>2 I had to go back to keep getting fluids. So I had</p> <p>3 texted Renee and let her know on that -- I believe it</p> <p>4 was, like, that Thursday -- because I got out of the</p> <p>5 hospital Wednesday night, and I texted her that</p> <p>6 Thursday, and I said, "Hey, they diagnosed me with</p> <p>7 hyperemesis. You know, I'm super sick. They gave me</p> <p>8 some fluids, but they did excuse me the next couple of</p> <p>9 days. You know, I'll see you-guys Monday," basically.</p> <p>10 All she said was, "Okay." She didn't even reach</p> <p>11 out. That's what I thought was kind of weird because</p> <p>12 she didn't say, "Are you okay? Is everything okay, you</p> <p>13 know," or -- you know, nothing. She just said okay.</p> <p>14 Okay. Then I came to work Monday, and that's when I</p> <p>15 spoke to Danny (sic) on that Monday after that call.</p> <p>16 Q. You mean Monty?</p> <p>17 A. Oh, sorry, Monty.</p> <p>18 Q. That's fine. Okay. And then -- so that was on</p> <p>19 Monday you talked to Monty and told him you were</p> <p>20 pregnant, and then was it that same -- later in the week</p> <p>21 that you received the letter --</p> <p>22 A. Yes.</p> <p>23 Q. -- letting you know you were being laid off?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Do you know if -- in June of 2017, if</p> <p style="text-align: right;">Page 66</p>	<p>1 as opposed to being salary in June of 2017?</p> <p>2 A. I would say probably, yeah, because -- I don't</p> <p>3 know. I never got the commission, so I didn't know how</p> <p>4 the commission would have played out, but, I mean, yeah,</p> <p>5 it would probably definitely have been less. It would</p> <p>6 have been less.</p> <p>7 Q. Tell me about the commission that you said wasn't</p> <p>8 paid out. How was the commission determined?</p> <p>9 A. Well, with that spreadsheet that you had from</p> <p>10 earlier from the exhibit, I had to come up with my own</p> <p>11 commission. And he said I wouldn't receive commission</p> <p>12 the first 30 days because he wanted to see how -- you</p> <p>13 know, if I was even doing the job right first. And then</p> <p>14 when I was, he was, like, "Okay. You know, let's talk</p> <p>15 about commission," because I brought it up because I</p> <p>16 was, like, okay, why is he not bringing it up, you know.</p> <p>17 So I had brought it up, and he was, like, "Come up with</p> <p>18 your own commission." I said, "Okay." And I've never</p> <p>19 done that before, so that's why I was trying to figure</p> <p>20 it out. And then I had E-mailed him what I thought, you</p> <p>21 know, was comparable or was okay for commission, and</p> <p>22 he -- I don't think he liked it. He was, like, "I think</p> <p>23 you need to work on it a little bit more," and I said</p> <p>24 okay. So I continued to work on it, and we just never</p> <p>25 had that conversation again about the commission.</p> <p style="text-align: right;">Page 68</p>
<p>1 Clearwater had any employees that were working from</p> <p>2 home?</p> <p>3 A. No, I do not. They were not.</p> <p>4 Q. Okay. And then --</p> <p>5 A. Like, Renee could work from wherever because she</p> <p>6 had her little laptop, so, I mean, that's why I had</p> <p>7 suggested it because I didn't think it was -- I had my</p> <p>8 own laptop, so that's why I had offered if I could just</p> <p>9 work from home.</p> <p>10 Q. Okay. Do you know what Renee's job title was at</p> <p>11 Clearwater?</p> <p>12 A. No, I don't. I know she was the big boss lady.</p> <p>13 Q. I like that title.</p> <p>14 A. Yes.</p> <p>15 Q. So -- and correct me if I'm wrong. At no point</p> <p>16 did you go from -- to hourly from salary, is that</p> <p>17 correct, in 2017?</p> <p>18 A. From salary to hourly?</p> <p>19 Q. Correct.</p> <p>20 A. No. I started from hourly to salary -- when I</p> <p>21 was an account agent, I was hourly and commission, and</p> <p>22 then when I became a manager, I was salary plus</p> <p>23 commission, but I never got any commission. And then I</p> <p>24 had offered if I could go hourly, and he said no.</p> <p>25 Q. Would you have made less money if you went hourly</p> <p style="text-align: right;">Page 67</p>	<p>1 Q. Okay. So is it correct that you-all never came</p> <p>2 to an agreement as to your commission plan once you</p> <p>3 became the sales manager?</p> <p>4 A. Right.</p> <p>5 Q. Okay.</p> <p>6 A. It was said that I would get commission; we just</p> <p>7 didn't come to an agreement on how much or what the</p> <p>8 commission would be based on.</p> <p>9 Q. Got it. Can we take just like a ten-minute break</p> <p>10 real quick?</p> <p>11 A. Yeah.</p> <p>12 (Recess from 12:08 p.m. to 12:20 p.m.)</p> <p>13 (Exhibit No. 9 marked.)</p> <p>14 BY MS. ABEL:</p> <p>15 Q. I'm going to hand you or send you Exhibit 9.</p> <p>16 Just let me know when you've had a chance to review it.</p> <p>17 A. I'm kind of skimming through it, if that's okay.</p> <p>18 Q. Yeah, that's fine. Take your time.</p> <p>19 A. Okay. Go ahead.</p> <p>20 Q. Do you recognize Exhibit 9?</p> <p>21 A. Yeah.</p> <p>22 Q. Okay. And what is Exhibit 9?</p> <p>23 A. It looks like -- kind of like a court paperwork.</p> <p>24 A court filing maybe.</p> <p>25 Q. Okay. So I will represent to you that this is</p> <p style="text-align: right;">Page 69</p>

<p>1 A. Yeah, I think I was.</p> <p>2 Q. By who?</p> <p>3 A. Yeah. Danny told me to go home. Well, my shift</p> <p>4 was already about to be over anyway, and he said just to</p> <p>5 go home. Because she had just got there at, like,</p> <p>6 10:00. I was like the 8:00 to 4:00, and she was the</p> <p>7 10:00 to 7:00</p> <p>8 Q. Did anyone -- did you meet with Danny to discuss</p> <p>9 the counseling records that are in Exhibit 10?</p> <p>10 A. The counseling records?</p> <p>11 Q. The documents that were in Exhibit 10?</p> <p>12 A. Yes. We were in the room together.</p> <p>13 Q. What do you mean? Which room? Like, his office?</p> <p>14 A. No. This was when we were in the old building,</p> <p>15 so there was, like -- where the counters were, there was</p> <p>16 like an office in the back, like, literally, like, right</p> <p>17 behind. All you had to do was, like, walk through the</p> <p>18 door and there was like an office right there, so it</p> <p>19 was, like, in the same cubicle. Yeah.</p> <p>20 Q. And did he sit down and talk to you about these</p> <p>21 counseling -- this counseling record in Exhibit 10?</p> <p>22 A. Yeah, briefly.</p> <p>23 Q. And what all did you discuss during that meeting?</p> <p>24 A. Well, just basically what had happened and why it</p> <p>25 was even a problem because I told them -- with this</p> <p style="text-align: right;">Page 74</p>	<p>1 So 19, on page three --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- it says, "Hernandez informed Danny Owens that</p> <p>4 she was pregnant soon after finding out."</p> <p>5 A. Uh-huh.</p> <p>6 Q. I think we previously talked about this, but was</p> <p>7 that the time we talked about prior where you met with</p> <p>8 him in person to tell him that you were pregnant?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. And then 20, it says, "Hernandez also</p> <p>11 informed Office Administrator Shelby Sumerlin."</p> <p>12 Previously, I think you said that you told her around</p> <p>13 the same time as Danny, or prior to telling Danny; is</p> <p>14 that correct?</p> <p>15 A. Yeah. Like, maybe a day or so. It was around</p> <p>16 the same time.</p> <p>17 Q. Okay. And then it has, "Human Resources</p> <p>18 Representative Crystal Maldonado" -- I think that's how</p> <p>19 you say it. I think, prior, you had said Kristen, but</p> <p>20 is it Crystal in HR you were talking to?</p> <p>21 A. Okay. Yeah. Uh-huh.</p> <p>22 Q. Okay. And then Renee Mitchell. I think we've</p> <p>23 already discussed you talked to her, I believe it was a</p> <p>24 Wednesday or Thursday in June of 2017 on the phone.</p> <p>25 A. It was -- yeah. They were, like, shortly right</p> <p style="text-align: right;">Page 76</p>
<p>1 video that was surfacing, you know, I told them that if</p> <p>2 they didn't stop, that I was going to let him know. And</p> <p>3 I ended up letting him know. I said, "I'm going to let</p> <p>4 him know that the manager is dating you," which is Alex,</p> <p>5 and that's why she kept picking at me. And he was just,</p> <p>6 "Okay. This is what I have to do. It's part of</p> <p>7 policy." He's, like, "I've never had problems with you.</p> <p>8 Just, you know, clear it up," and we never had a</p> <p>9 situation again. I just -- I didn't let her get to me</p> <p>10 anymore. So he kind of helped out, took, like putting</p> <p>11 us on different counters and stuff, so it was never a</p> <p>12 problem after that. And she ended up staying there</p> <p>13 another, like, year or so.</p> <p>14 Q. And, then, on the very last page -- what page is</p> <p>15 that -- page four, is that your signature?</p> <p>16 A. Yeah. I was upset that day. I don't even know</p> <p>17 why I'm -- so I just kind of scribbled.</p> <p>18 Q. All right. Let's get -- if you'll go back to</p> <p>19 Exhibit 9, the one we were just -- the first amended</p> <p>20 complaint.</p> <p>21 A. Oh, okay. Give me one second.</p> <p>22 Q. Yeah. And we might have already discussed some</p> <p>23 of this, but -- and if we have, let me know, but I just</p> <p>24 want to make sure to know all the factual allegations</p> <p>25 and claims that you have in this lawsuit.</p> <p style="text-align: right;">Page 75</p>	<p>1 after each other. Like, one by one.</p> <p>2 Q. Okay. So 21 says, "In or around late May 2017,</p> <p>3 Hernandez discussed her options with Crystal" -- I'm</p> <p>4 just going to say Crystal -- "in HR." What options did</p> <p>5 you discuss with Crystal?</p> <p>6 A. Just, like, you know, was I going to be punished,</p> <p>7 you know, for being pregnant, and I was telling her that</p> <p>8 I was getting sick, you know. And, you know, she was,</p> <p>9 like, "They can't do anything. Don't worry. You're</p> <p>10 basically overthinking it. You'll be fine" type of</p> <p>11 thing, and then she told me, like, I get maternity leave</p> <p>12 benefits that come with being pregnant, I guess, that's</p> <p>13 with the company. She discussed, like, maternity leave,</p> <p>14 and that was -- it was, like, very brief with her.</p> <p>15 Q. Okay. So, then, going down to 25, it says, "On</p> <p>16 or about June 6, 2018, Hernandez contacted Danny Owens</p> <p>17 to let him know that she was severely ill and could not</p> <p>18 stop throwing up." How did you contact Danny Owens on</p> <p>19 that day? Was it via telephone?</p> <p>20 A. I know so, yeah.</p> <p>21 Q. And what all did you discuss on that telephone</p> <p>22 call with Danny Owens?</p> <p>23 A. Just exactly that. I was just sick, and he was</p> <p>24 just, like, okay. Like, he never really said, like, you</p> <p>25 have to come in. He just would be, like, "Well, can you</p> <p style="text-align: right;">Page 77</p>

<p>1 make it?" I would be, like, "Yeah. Just give me some 2 time," you know, or stuff like that. But he would never 3 be, like, "You have to be here." He would just say, you 4 know, "Are you okay? Are you going to be able to make 5 it" and things like that. It was always very brief. 6 Q. And then the next one, it says, "On or about June 7 6, 2017, Hernandez also called the owner of Defendant, 8 Monty Merrill, to let him know that she was severely ill 9 and could not stop throwing up." Can you -- do you see 10 where it says that? 11 A. Yeah. 12 Q. Okay. Is that a correct statement? 13 A. Yes. 14 Q. Tell me, what all did you discuss with Monty? 15 A. That was the day when I had asked for options on, 16 like, what I could do. Like, you know, what can I do 17 for the company because, you know, I didn't want to make 18 him upset or make him feel like, you know, he couldn't 19 count on me because I could get it done, you know. It 20 was just I needed some time, you know, or things like 21 that. 22 Q. So is this the same conversation, I think we 23 talked about, where you asked if you could work from 24 home -- 25 A. Yeah.</p> <p style="text-align: right;">Page 78</p>	<p>1 Q. Did he -- on that conversation in June 6 of 2017, 2 did he -- Mr. Merrill ever say, "No, I will not adjust 3 your work schedule"? 4 A. He just said no. 5 Q. And when he just said no, was it just a general 6 no as to, you know, all of the work from home, adjust 7 your work schedule or work hourly? 8 A. Yeah. Like, when I would ask, I was, like, 9 "Well, can I work from home," he was, like, "No." I 10 said, "Or maybe you can switch me to, like, hourly to -- 11 I mean, from salary to hourly or" -- and then I said, 12 "Or, you know, I can just come a couple of days or, you 13 know, you could just pay me while I'm here," and he was, 14 like, "No." And then he was just kind of quiet, like -- 15 I said, "Well, is there anything, you know, that we can 16 do? Like, I can do it, you know," and he was just, 17 like, "We'll talk later," and that's all the 18 conversation was. 19 Q. Okay. And then going to 32, it says, "Hernandez 20 had one or more physical conditions that substantially 21 limited one or more of her major life activities." What 22 physical conditions were you suffering from on June 8 -- 23 we can just say June of 2017? 24 A. Like, that's when I was diagnosed with the -- I 25 don't know how to pronounce it, either. Hyperemesis or</p> <p style="text-align: right;">Page 80</p>
<p>1 Q. -- and the hourly? 2 Okay. If you'll go to the next page. Actually, 3 no, stay on -- 27, the bottom of page three where it 4 says, "Hernandez asked Monty if she could work from 5 home, adjust her work schedule or work hourly." What do 6 you mean by adjust your work schedule? 7 A. Like, going in, like, part-time or, like, coming 8 in just, like, certain days. Like, I could work from 9 home, like, three days, two days and then I could come 10 to work three days. Like, something like that. 11 Q. Okay. Then on page four at the top, 28, it says, 12 "Merrill refused her request." 13 A. Yes. 14 Q. And when you say "request," are you referring to 15 the work from home, adjust your work schedule or work 16 hourly? 17 A. Yes. He was just, like, "Oh" -- well, when I was 18 saying things, he was just, like, kind of quiet. He was 19 like, "Nay." Like, "No, that's not going to work." He 20 would be, like, "We'll figure it out. We'll talk soon." 21 That's all it was. 22 Q. So did he ever, during that conversation on June 23 6, 2017, say, "No, I'm not going to allow you to work 24 from home"? 25 A. He just said no. When I had asked, he said no.</p> <p style="text-align: right;">Page 79</p>	<p>1 something. 2 Q. Yeah. It's better than I can say it. Yeah. 3 A. That's when I was diagnosed with that, and then 4 just being just physically out of commission. 5 Q. And then -- so 33, it says June 9 of 2017, you 6 contacted Renee Mitchell. Is that a correct statement? 7 A. Yes. 8 Q. And what all did you discuss with Ms. Mitchell on 9 that phone call? 10 A. That I had just got out of the hospital. They 11 excused me the next couple of days, and that I won't be 12 in. And I told her what the hyperemesis was, and all 13 she said was okay. 14 Q. Okay. 15 A. She didn't know what it meant either, and I think 16 I had to explain it to her, too. But she was just, 17 like, okay. 18 Q. Did she ask for a doctor's note or anything like 19 that? 20 A. She didn't ask for one, but I sent her the 21 doctor's note anyway. 22 Q. Okay. 23 A. They never asked for one, but I always gave it to 24 them. 25 Q. So on 35, it says -- on page four, it says,</p> <p style="text-align: right;">Page 81</p>

<p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: STEPHANIE HERNANDEZ</p> <p>3 DATE OF DEPOSITION: 11-13-20</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 Job No. TX4316543</p> <p style="text-align: right;">Page 110</p>	<p>1 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS</p> <p>2 AUSTIN DIVISION</p> <p>3 STEPHANIE HERNANDEZ, }</p> <p>Plaintiff, }</p> <p>4 }</p> <p>VS. } Civil Action No.</p> <p>5 } 1:18-CV-00319-RP</p> <p>CLEARWATER TRANSPORTATION, }</p> <p>6 LTD, }</p> <p>Defendant. }</p> <p>7</p> <p>8 REPORTER'S CERTIFICATION</p> <p>9 THE STATE OF TEXAS:</p> <p>COUNTY OF _____:</p> <p>10</p> <p>11 I, Tracie L. Carbajal, a Certified Shorthand Reporter</p> <p>12 in and for the State of Texas, hereby certify to the</p> <p>13 following:</p> <p>14 That the witness, STEPHANIE HERNANDEZ, was duly sworn</p> <p>15 by the officer and that the transcript of the oral</p> <p>16 deposition is a true record of the testimony given by</p> <p>17 the witness;</p> <p>18 That the original transcript was submitted on</p> <p>19 _____, 2020, to the attorney Austin</p> <p>20 Kaplan, for examination and signature, and return to</p> <p>21 Alise N. Abel by _____, 2020;</p> <p>22 That the amount of time used by each party at the</p> <p>23 deposition is as follows:</p> <p>24 Austin Kaplan - 00 Hours: 06 Minutes</p> <p>Alise N. Abel - 02 Hours: 44 Minutes</p> <p>25</p> <p style="text-align: right;">Page 112</p>
<p>1 I, STEPHANIE HERNANDEZ, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 _____</p> <p>STEPHANIE HERNANDEZ</p> <p>7</p> <p>8 THE STATE OF TEXAS)</p> <p>9 COUNTY OF _____)</p> <p>10 Before me, _____, on this</p> <p>11 day personally appeared STEPHANIE HERNANDEZ, known to me</p> <p>12 (or proved to me under oath or through</p> <p>13 _____) (description of identity card or</p> <p>14 other document) to be the person whose name is</p> <p>15 subscribed to the foregoing instrument and acknowledged</p> <p>16 to me that they executed the same for the purposes and</p> <p>17 consideration therein expressed.</p> <p>18 Given under my hand and seal of office this</p> <p>19 _____ day of _____, 2020.</p> <p>20</p> <p>21 _____</p> <p>Notary Public in and for</p> <p>22 The State of Texas</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 111</p>	<p>1 I further certify that I am neither counsel for,</p> <p>2 related to, nor employed by any of the parties in the</p> <p>3 action in which this proceeding was taken, and further</p> <p>4 that I am not financially or otherwise interested in the</p> <p>5 outcome of the action.</p> <p>6 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this</p> <p>7 1st day of December, 2020.</p> <p>8</p> <p>9 </p> <p>Tracie L. Carbajal, Texas CSR 2885</p> <p>10 Veritext</p> <p>4295 San Felipe Street, Suite 125</p> <p>11 Houston, Texas 77027</p> <p>Telephone: (713) 583-9191</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 113</p>